

REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1 – 23 are pending.

Applicants appreciate the Office Action's indication of Claims 7, 11, 18 and 22 contain allowable subject matter.

The Office Action rejects Claims 1-3, 9, 10, 12-14, 20 and 21 under 35 U.S.C. § 103(a) over U.S.P. 6,463,152 to Takahashi et al. in view of U.S. Publication No. 2001/0023433 to Natsubori et al. and Claim 23 under 35 U.S.C. § 103(a) over Takahashi and Natsubori and further in view of U.S.P. 6,577,346 to Perlmann. These rejections are respectfully traversed.

Applicants attach a Statement of Common Ownership for the instant application and Natsubori. 35 U.S.C. § 103(c) provides that subject matter developed by another person, which qualifies as prior art only under subsection (e) of Section 102 should not preclude patentability where the subject matter and claimed invention were at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Natsubori qualifies as prior art under 35 U.S.C. § 102(e) because it was filed by another on May 7, 2001, before the June 21, 2001 filing date of the application. Both Natsubori and the application are assigned to Kabushiki Kaisha Toshiba as evidenced by the attached Statement of Common Ownership. Thus, Natsubori does not qualify as prior art under 35 U.S.C. § 103(c).

For the foregoing reasons, it is respectfully submitted that this application is now in condition for allowance. A Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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